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FILED

2008 MAY 14 PM 2:59

DEPT. OF JUSTICE, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABY XNIX DEPUTY

11 Attorneys for Plaintiff
 12 United States of America

13 UNITED STATES DISTRICT COURT
 14 SOUTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Civil No. '08 CV 0862 IEG CAB

17 Plaintiff,

18 COMPLAINT FOR
19 FORFEITURE

20 v.

21 \$45,000.00 IN U.S. CURRENCY,

22 TWO RABOBANK CASHIER'S
23 CHECKS AT A TOTAL VALUE
24 OF \$31,000.00,25 ONE WELLS FARGO CHECK
26 #028203098 IN THE AMOUNT
27 OF \$17,000.00;28 ONE RABOBANK CHECK
#012000742 IN THE AMOUNT
OF \$8,000.00,29 ONE RABOBANK CHECK
#012000743 IN THE AMOUNT
OF \$8,000.00,

30 \$8,000.00 IN U.S. CURRENCY,

31 Defendants.

32
33 By way of complaint against the defendants,

34 \$45,000.00 IN U.S. CURRENCY,

35 TWO RABOBANK CASHIER'S CHECKS AT A TOTAL VALUE OF \$31,000.00,

36 ONE WELLS FARGO CHECK #028203098 IN THE AMOUNT OF \$17,000.00,

1 ONE RABOBANK CHECK #012000742 IN THE AMOUNT OF \$8,000.00,
2 ONE RABOBANK CHECK #012000743 IN THE AMOUNT OF \$8,000.00, and
3 \$8,000.00 IN U.S. CURRENCY,

4 (hereinafter "defendants"), the United States of America alleges:

5 1. This Court has jurisdiction over this action by virtue of the provisions of Title 28,
6 United States Code, Section 1335, and Title 21, United States Code, Section 881.

7 2. Venue is proper in this district pursuant to Title 28, United States Code, Section 1335,
8 because the defendants were found within this district.

9 3. On December 3, 2007, United States Border Patrol agents discovered a narcotics
10 smuggling tunnel between Mexico and the United States in Tecate, CA. Agents seized approximately
11 13,776 pounds of marijuana from the tunnel. The tunnel was located by a narcotics K-9 at 461 Tecate
12 Road in Tecate, CA. Agents followed the tunnel and discovered it originated at Calle Presidente Elias
13 Calles, Zona Centro #261, Tecate, Baja California, Mexico.

14 On December 7, 2007, special agents met with David Rafael Lomas-Lopez, who along
15 with his brother, owns the building from which the tunnel originated. Agents learned the brothers had
16 purchased the building approximately ten years ago, and that in May 2006, the first floor of the building
17 was rented to an individual known as Jose Larios-Hernandez. The lease was for eighteen months and
18 called for a payment of \$1,500 a month. Lomas-Lopez had decided to sell the building. When informed
19 of the impending sale, Larios-Hernandez offered to purchase the building from the Lomas-Lopez
20 brothers. Larios-Hernandez had a right to purchase the building in his lease contract. A purchase
21 agreement was drafted with the indicated purchase price of \$162,347.23. In addition to this agreement,
22 they received \$125,000 in cash in a shoe box. \$45,000.00 of this cash was turned over to the agents on
23 December 7, 2007. A narcotic K-9 made a positive hit on the currency. Additionally, agents received
24 four IOUs for payments of \$23,163.19 on each of them. This amounted to a total sales price of
25 \$379,999.99 for the building.

26 The agents then went to the Lomas-Lopez residence and were given an additional
27 \$8,000.00 in currency. This currency was part of the \$125,000.00 given to him in the shoe box.

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1 A narcotic K-9 later made a positive hit on this \$8,000.00 in currency. Agents also received all of the
2 documents associated with the sale of the building.

3 Later in the day, agents also interviewed Antonio Lomas-Lopez, the brother of David
4 Rafael. Antonio corroborated what his brother had told the agents. Antonio stated that Larios had
5 offered him \$180,000.00 for the building, but Antonio countered with a sale price of \$380,000.00 for
6 the building. This offer was accepted by both parties. Antonio confirmed the delivery of \$125,000.00
7 in cash in the shoe box. The tunnel was discovered three days after this payment was made.

8 Both David and Antonio Lomas-Lopez stated they did not want to keep the money
9 because it was associated with narcotic trafficking. David Lomas-Lopez signed a DEA-12 stating he
10 was giving the money to DEA on behalf of his brother Antonio.

11 On December 10, 2007, David Lomas-Lopez and Lidia Michelle Lomas met with agents
12 in San Ysidro. Ms. Lomas is the daughter of Antonio Lomas-Lopez. Ms. Lomas stated her father
13 Antonio had given her and her brother some of the currency from the sale of the building to deposit in
14 their bank accounts. She stated she had deposited \$17,000.00 in her bank account with Wells Fargo and
15 her brother had deposited \$8,000.00 in his account with Rabobank. David Lomas-Lopez also stated he
16 had deposited \$8,000.00 of the currency in his bank account at Rabobank. They both said they were
17 willing to withdraw the money in a cashier's check made out to the U.S. Marshal and give the checks
18 to the agents.

19 On December 11, 2007, Ms. Lomas and her brother Marco Lomas met with agents in
20 Chula Vista, CA. Ms. Lomas presented a \$17,000.00 Wells Fargo cashier's check made payable to the
21 U.S. Marshal Service. Ms. Lomas signed a U.S. Attorney consent to forfeiture of money and stated her
22 father did not want anything to do with the money. Mr. Lomas also signed a consent to forfeiture for
23 the \$8,000.00 cashiers check he presented.

24 On December 14, 2007, David Lomas Lopez provided two additional cashiers checks
25 from Rabobank, one for \$23,000.00 and the other for \$8,000.00. Mr. Lomas-Lopez also signed a
26 consent to forfeiture form related to these checks.

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Count 1

\$45,000.00 IN U.S. CURRENCY

4. Paragraphs 1-3 are incorporated as a part hereof.

4 5. On and/or prior to December 7, 2007, the Count 1 defendant currency was a thing of
5 value furnished or intended to be furnished in exchange for a controlled substance or listed chemical in
6 violation of Title 21 of the United States Code, Section 881.

7 6. Alternatively, on and/or prior to December 7, 2007, the Count 1 defendant currency
8 represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed
9 chemical in violation of Title 21 of the United States Code, Section 881.

10 7. Because of the aforementioned acts or uses alleged herein, either singly or in
11 combination, the Count 1 defendant currency is subject to forfeiture pursuant to Title 21, United States
12 Code, Section 881(a)(6).

13 8. The Count 1 defendant currency is presently stored within the jurisdiction of this Court.

Count 2

TWO RABOBANK CASHIER'S CHECKS AT A TOTAL VALUE OF \$31,000.00

9. Paragraphs 1-3 are incorporated as a part hereof.

17 10. On and/or prior to December 7, 2007, the Count 2 defendant checks were things of value
18 furnished or intended to be furnished in exchange for a controlled substance or listed chemical in
19 violation of Title 21 of the United States Code; Section 881.

20 11. Alternatively, on and/or prior to December 7, 2007, the Count 2 defendant checks
21 represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed
22 chemical in violation of Title 21 of the United States Code, Section 881.

23 12. Because of the aforementioned acts or uses alleged herein, either singly or in
24 combination, the Count 2 defendant checks are subject to forfeiture pursuant to Title 21, United States
25 Code, Section 881(a)(6).

26 13. The Count 2 defendant checks are presently stored within the jurisdiction of this Court.

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Count 3

ONE WELLS FARGO CHECK #028203098 IN THE AMOUNT OF \$17,000.00

14. Paragraphs 1-3 are incorporated as a part hereof.

4 15. On and/or prior to December 7, 2007, the Count 3 defendant check was a thing of
5 value furnished or intended to be furnished in exchange for a controlled substance or listed chemical
6 in violation of Title 21 of the United States Code, Section 881.

7 16. Alternatively, on and/or prior to December 7, 2007, the Count 3 defendant check
8 represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed
9 chemical in violation of Title 21 of the United States Code, Section 881.

10 17. Because of the aforementioned acts or uses alleged herein, either singly or in
11 combination, the Count 3 defendant check is subject to forfeiture pursuant to Title 21, United States
12 Code, Section 881(a)(6).

18. The Count 3 defendant check is presently stored within the jurisdiction of this Court.

Count 4

ONE RABOBANK CHECK #012000742 IN THE AMOUNT OF \$8,000.00

19. Paragraphs 1-3 are incorporated as a part hereof.

17 20. On and/or prior to December 7, 2007, the Count 4 defendant check was a thing of value
18 furnished or intended to be furnished in exchange for a controlled substance or listed chemical in
19 violation of Title 21 of the United States Code, Section 881.

20 21. Alternatively, on and/or prior to December 7, 2007, the Count 4 defendant check
21 represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed
22 chemical in violation of Title 21 of the United States Code, Section 881.

23 22. Because of the aforementioned acts or uses alleged herein, either singly or in
24 combination, the Count 4 defendant check is subject to forfeiture pursuant to Title 21, United States
25 Code, Section 881(a)(6).

26 23. The Count 4 defendant check is presently stored within the jurisdiction of this Court.

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Count '5

ONE RABOBANK CHECK #012000743 IN THE AMOUNT OF \$8,000.00

24. Paragraphs 1-3 are incorporated as a part hereof.

4 25. On and/or prior to December 7, 2007, the Count 5 defendant check was a thing of value
5 furnished or intended to be furnished in exchange for a controlled substance or listed chemical in
6 violation of Title 21 of the United States Code, Section 881.

7 26. Alternatively, on and/or prior to December 7, 2007, the Count 5 defendant check
8 represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed
9 chemical in violation of Title 21 of the United States Code, Section 881.

10 27. Because of the aforementioned acts or uses alleged herein, either singly or in
11 combination, the Count 5 defendant check is subject to forfeiture pursuant to Title 21, United States
12 Code, Section 881(a)(6).

13 28. The Count 5 defendant check is presently stored within the jurisdiction of this Court.

Count 6

\$8,000.00 IN U.S. CURRENCY

29. Paragraphs 1-3 are incorporated as a part hereof.

17 30. On and/or prior to December 7, 2007, the Count 6 defendant currency was a thing of
18 value furnished or intended to be furnished in exchange for a controlled substance or listed chemical in
19 violation of Title 21 of the United States Code, Section 881.

20 31. Alternatively, on and/or prior to December 7, 2007, the Count 6 defendant currency
21 represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed
22 chemical in violation of Title 21 of the United States Code, Section 881.

23 32. Because of the aforementioned acts or uses alleged herein, either singly or in
24 combination, the Count 6 defendant currency is subject to forfeiture pursuant to Title 21, United States
25 Code, Section 881(a)(6). '

26 33. The Count 6 defendant currency is presently stored within the jurisdiction of this Court.

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1 WHEREFORE, the United States prays that due process issue to enforce the forfeiture of the
2 defendants, and that due notice be given to all interested parties to appear and show cause why said
3 forfeiture should not be declared.

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5 DATED: May 14, 2008

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KAREN P. HEWITT
United States Attorney

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David M. McNees

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DAVID M. McNEES
Special Assistant U.S. Attorney

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VERIFICATION

1 I, Melissa Bell, hereby state and declare as follows:

2 1. I am a Special Agent with the United States Drug Enforcement Administration.

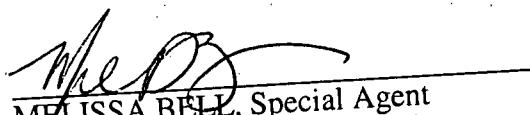
3 2. I have read the foregoing complaint and know its contents.

4 3. The information in the complaint was furnished by official Government sources. Based

5 on this information, I believe the allegations in the complaint to be true.

6 I declare under penalty of perjury that the foregoing is true and correct, to the best of my
7 knowledge and belief.

8 Executed on May 13, 2008.

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11 MELISSA BELL, Special Agent
12 Drug Enforcement Administration
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

\$45,000 in U.S. Currency, et al.

2008 MAY 14 PM 3:00

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY) SOUTHERN DISTRICT OF CALIFORNIA

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

08 CV 0862 IEG CAB

CV 14

DEPUTY

US Attorney's Office SAUSA David M. McNees, (619) 557-5979
880 Front Street, Room 6293, San Diego, CA 92101-8893

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	<input type="checkbox"/> PTF <input type="checkbox"/> DEF	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF <input type="checkbox"/> DEF
Citizen of Another State	<input type="checkbox"/> PTF <input type="checkbox"/> DEF	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> PTF <input type="checkbox"/> DEF
Citizen or Subject of a Foreign Country	<input type="checkbox"/> PTF <input type="checkbox"/> DEF	Foreign Nation	<input type="checkbox"/> PTF <input type="checkbox"/> DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	SOCIAL SECURITY	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 861 HIA (1395f)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	FEDERAL TAX SUITS	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Torts Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

21 U.S.C. Section 881

Brief description of cause:
narcotics trafficking

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes NoVIII. RELATED CASE(S)
IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

May 14, 2008

SIGNATURE OF ATTORNEY OF RECORD

David McNees

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

C6